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6 **UNITED STATES DISTRICT COURT**
7 **SOUTHERN DISTRICT OF CALIFORNIA**
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9 RAFAEL OLIVAS-SAUCEDA,

10 Plaintiff,

11 vs.

12 UNITED STATES OF AMERICA,

13 Defendant.

09 CR 00911-LAB
CASE NO. 12-CV-293-LAB

**ORDER DENYING HABEAS
RELIEF**

14 Olivas-Sauceda pled guilty to importing cocaine into the United States and on October
15 2, 2009 was sentenced to 57 months in prison. On February 2, 2012 he filed a federal
16 habeas petition asking for a reduction in his sentence.

17 A federal prisoner's petition for habeas relief is subject to a one-year statute of
18 limitations that runs from "the date on which the judgment of conviction becomes final." 28
19 U.S.C. § 2255(f)(1). A conviction becomes "final" under § 2255 upon "the conclusion of
20 direct review or the expiration of the time for seeking such review." *Burton v. Stewart*, 549
21 U.S. 147, 156–57 (2007). Because Olivas-Sauceda did not appeal his sentence, it became
22 final just fourteen days later, or October 16, 2009. See Fed. R. App. P. 4(b). His § 2255
23 petition was therefore due on October 16, 2010. For this reason, the petition is **DENIED** as
24 untimely.

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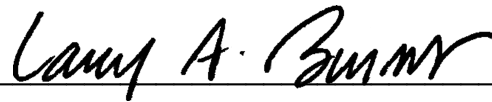
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1 The Court adds that Olivas-Sauceda relies on a boilerplate petition that it has seen
2 a flood of in recent months. This petition, always filed by Mexican defendants seeking a
3 reduction in their sentence, argues that it violates the Fifth and Fourteenth Amendment for
4 the United States to deny aliens a sentence reduction for entering a drug program or halfway
5 house. The Court has consistently denied this. See, e.g., *Alejandro Rodriguez-Preciado v.*
6 *United States*, Case No. 11-CV-2949, Dkt. No. 2 (S.D. Cal. Jan. 12, 2012) ("No due process
7 or equal protection issue arises merely because a defendant's alien status excludes him
8 from certain programs available to citizens, within the prison system or without.")

9 **IT IS SO ORDERED.**

10 2-27-12



11 **HONORABLE LARRY ALAN BURNS**
12 United States District Judge
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